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Atty. Dkt. No. 016777-0454

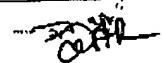
***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant: Indu J. ISAACS  
 Title: GLP-2 FORMULATIONS  
 Appl. No.: 09/750,022  
 Filing Date: 12/29/2000  
 Examiner: Chih Min Kam  
 Art Unit: 1653

**CERTIFICATE OF FACSIMILE TRANSMISSION**  
 I hereby certify that this paper is being facsimile transmitted to the  
 United States Patent and Trademark Office, Alexandria, Virginia  
 on the date below.

*Amy D. Mason*  
 (Printed Name)  
*Amy D. Mason*  
 (Signature)

March 23, 2006  
 (Date of Deposit)


**TRANSMITTAL**

Mail Stop Petitions  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Sir:

Transmitted herewith are the following documents:

[ X ] Renewed Petition for Retroactive License for Filing in a Foreign Country Under 37 CFR § 5.25

[ X ] Declaration of Mary B. Springings

[ X ] Applicant hereby petitions for an extension of time under 37 C.F.R. §1.136(a) for the total number of months checked below:

|   |            |          |
|---|------------|----------|
| [ ] Extension for response filed within the first month:    | \$120.00   | \$0.00   |
| [ X ] Extension for response filed within the second month: | \$450.00   | \$450.00 |
| [ ] Extension for response filed within the third month:    | \$1,020.00 | \$0.00   |
| [ ] Extension for response filed within the fourth month:   | \$1,590.00 | \$0.00   |
| [ ] Extension for response filed within the fifth month:    | \$2,160.00 | \$0.00   |
| EXTENSION FEE TOTAL:  |            | \$450.00 |
| [ ] Small Entity Fees Apply (subtract ½ of above):          |            | \$0.00   |
| TOTAL FEE:  |            | \$450.00 |

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A credit card payment form in the amount of \$450.00 is enclosed.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

If any extensions of time are needed for timely acceptance of papers submitted herewith, applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date March 23, 2006

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 295-4094  
Facsimile: (202) 672-5399

By Courtenay C. Brinckerhoff

Courtenay C. Brinckerhoff  
Attorney for Applicant  
Registration No. 37,288

MAR 29 2006

Attorney Docket No.: 016777/0454

***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant: Indu J. ISAACS  
Title: GLP-2 FORMULATIONS  
Appl. No.: 09/750,022  
Filing Date: 12/29/2000  
Examiner: Chih Min KAM  
Art Unit: 1653

**RENEWED PETITION FOR RETROACTIVE LICENSE**  
**FOR FILING IN A FOREIGN COUNTRY UNDER 37 CFR § 5.25**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Further to the Decision mailed November 25, 2005, Applicant hereby renews its Petition (filed July 27, 2005) for a retroactive foreign filing license for the subject matter of the captioned application.

As set forth in the July 2005 Petition, the subject matter of the captioned application was erroneously filed in the United Kingdom as Provisional Patent Application No. 9930882.7, on December 30, 1999, without a foreign filing license. Applicant respectfully requests that a retroactive foreign filing license be granted in accordance with 37 CFR § 5.25.

In view of the Decision, Applicant believes that the requirements of 37 CFR § 5.25 were met by the Petition filed July 27, 2005, except for the explanation required by 37 CFR § 5.25(a)(3)(iii). Applicant submits herewith a Declaration by Mary B. Sprigings, a person with personal knowledge of the decision to file the U.K. application at issue. The Declaration includes a showing of facts as to how the error occurred and an explanation of how the error was made without deceptive intent. Supporting documentation, i.e., a copy of the letter Ms. Sprigings sent to the U.K. associate with instructions to file the U.K. application, is attached to her Declaration.

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PAGE 3/8 \* RCVD AT 3/23/2006 3:43:56 PM [Eastern Standard Time] \* SVR:USPTO-EFXRF-5/11 \* DNIS:2738300 \* CSID: \* DURATION (mm:ss):02:50

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Appln. No. 09/750,022

Ms. Sprigings attests that she was employed by the assignee of the captioned application in December of 1999, when the subject matter of the captioned application was filed in a U.K. application without first obtaining a foreign filing license, and was involved in the decision to file the U.K. application. She explains that she was not aware of the requirement of U.S. law that a foreign filing license must be obtained before a patent application can be filed abroad on any invention that was made in the United States. She also explains that at the time, it was unclear as to who the inventors were and where the invention had taken place. As a result, she explains, she decided to file the application in the U.K., where inventorship need not be determined prior to filing. Thus, the error stems from a lack of understanding of U.S. law, and was made without deceptive intent.

In view of the foregoing, Applicant respectfully urges the Commissioner to grant a retroactive foreign filing license for the subject matter of the captioned application, in accordance with the Petition filed July 27, 2005. If there are any questions regarding this submission, or if any issues remain, the Patent Office is invited to contact the undersigned attorney of record at the telephone number set forth below.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

Date March 23, 2006

By Courtenay C. Brinckerhoff

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 295-4094  
Facsimile: (202) 672-5399

Courtenay C. Brinckerhoff  
Attorney for Applicant  
Registration No. 37,288

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Art Unit: 1653

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**DECLARATION OF MARY B. SPRIGINGS**

The undersigned, Mary B. Sprigings, does hereby declare and state as follows:

1. I am a Canadian attorney called to the Law Society of Upper Canada in Ontario. I am also a registered Canadian Patent Agent and I am registered before the U.S. Patent Office as a foreign patent attorney (Reg. No. 40,292).
2. I am a former employee of the Assignee of the captioned application, NPS Allelix Corp., an Ontario corporation.
3. I was employed by the Assignee in December of 1999 when the subject matter of the captioned application was filed in a U.K. application without first obtaining a foreign filing license from the U.S. Commissioner for Patents.
4. I was involved in the decision to file the U.K. application, and have personal knowledge about the facts surrounding that decision.
5. The error in filing the subject matter of the captioned application in the U.K. without first obtaining a U.S. foreign filing license was made without deceptive intent. I was

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not aware of the requirement of U.S. law that a foreign filing license must be obtained before a patent application can be filed abroad on any invention that was made in the United States.

6. The invention resulted from work done by employees of the Assignee and persons under a contract for hire. At the time, it was unclear who the inventors were and where the invention had taken place. As a result, because we were unable to determine that information in time for filing, we decided to file the application in the U.K., where inventorship need not be determined prior to filing. As such, the subject matter of the captioned application was filed in the U.K. without first obtaining a U.S. foreign filing license, without deceptive intent.

7. I am no longer employed by the Assignee, and do not have any documents relating to the decision to file the subject matter of the captioned application in the U.K. Moreover, I am informed by the Assignee that its files for this matter do not contain any documents relating to the decision to file in the U.K., other than the attached letter instructing the U.K. associate to file the application in the U.K. The lack of documentation is consistent with my recollection that I did not make any written memoranda to the file regarding this decision.

8. The attached letter instructs the U.K. associate to file the subject matter of the captioned application in the U.K. by December 31, 1999. I prepared the letter, and it bears my signature.

9. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and, further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such a willful false statement may jeopardize the validity of the application or any patent issuing thereon.

Mar 21/06

Date

  
Mary B. Sprigings

Mary B. Sprigings

MAR 23 2006



Local Service,  
National Strength  
<http://www.udl.co.uk>

B183

Ms Mary B Spriggs  
Allelix Biopharmaceuticals Inc.  
6850 Goreway Drive  
Mississauga  
Ontario  
CANADA L4V 1V7

Your ref: B184UK Prov  
Our ref: GMD/AL/P46555

Dear Mary,

New UK Patent Filing - GLP-2 Formulation  
NPS Allelix Corp.

Thank you for your faxed letter of 29<sup>th</sup> December 1999.

I confirm that this new UK provisional application is being filed today (30<sup>th</sup> December 1999). The application is being filed in the name of NPS Allelix Corp. as instructed, using the Goreway Drive address. If the Goreway Drive is not correct for NPS Allelix Corp. it should be relatively straightforward to correct in due course. An official filing receipt confirming the application date and indicating the application number allotted will be forwarded to you in the next few weeks.

Following our discussion last week concerning the situation in respect of clinical trials, essentially, what matters in Europe is what is available to any members of the public. Phase I clinical trials would, in my view, be most unlikely to have had any details made available to the public and phase II trials have not yet commenced.

Thank you for entrusting us with this new application; best wishes for a happy new year.

Yours sincerely,

Hedley W. Austin

Partners  
William Orr Senior Partner  
Peter Wharton Managing Partner  
Philip Archer  
Laurence Ben-Nathan

Hedley Austin\*  
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Advised in Swanses by  
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Karen Cawdell  
Alison Gallafent  
Clare Salisbury